

IC 32-30-3.1

Chapter 3.1. Occupying Claimant

IC 32-30-3.1-1

Finding that occupant not rightful owner; order to give possession to plaintiff

Sec. 1. If an occupant of real property:

- (1) has color of title to the property;
- (2) in good faith has made valuable improvements to the property;
- and
- (3) after making improvements to the property is found, in a court action, not to be the rightful owner of the property;

an order may not be issued to give the plaintiff possession of the property until a complaint that meets the requirements of section 2 of this chapter has been filed and the provisions of this chapter are complied with.

As added by P.L.2-2002, SEC.15.

IC 32-30-3.1-2

Complaint; requirements

Sec. 2. The complaint must:

- (1) set forth the grounds on which the defendant seeks relief; and
- (2) state, as accurately as practicable, the value of the improvements on the real property and the value of the property without the improvements.

As added by P.L.2-2002, SEC.15.

IC 32-30-3.1-3

Trial; required assessments

Sec. 3. All issues under this chapter joined together must be tried as in other cases, and the court or jury trying the cause shall assess the following:

- (1) The value of all lasting improvements made on the real property in question before the commencement of the action for the recovery of the property.
- (2) The damages, if any, which the premises may have sustained by waste or cultivation through the time the court renders a judgment.
- (3) The fair value of the rents and profits that may have accrued, without the improvements, through the time the court renders a judgment.
- (4) The value of the real property that the successful claimant has in the premises, without the improvements.
- (5) The taxes, with interest, paid by the defendant and by those under whose title to the property the defendant claims.

As added by P.L.2-2002, SEC.15.

IC 32-30-3.1-4

Payment for improvements; possession

Sec. 4. The plaintiff in the main action for possession of the real

property may pay the appraised value of the improvements to the real property, and the taxes paid, with interest, deducting the value of the rents and profits, and the damages sustained, as assessed at the trial, and take the property.

As added by P.L.2-2002, SEC.15.

IC 32-30-3.1-5

Failure to pay value of improvements; possession by defendant; payments to plaintiff

Sec. 5. If a plaintiff fails to pay the defendant the value of the improvements to the real property established under section 4 of this chapter after a reasonable time fixed by the court, the defendant may take the property after paying the plaintiff the appraised value of the property, minus the value of the improvements.

As added by P.L.2-2002, SEC.15.

IC 32-30-3.1-6

Tenants in common; failure of plaintiff and defendant to make required payments

Sec. 6. If the plaintiff does not pay the defendant the appraised value of the improvements to the real property under section 4 of this chapter and the defendant does not pay the plaintiff the appraised value of the real property under section 5 of this chapter within the time fixed by the court, the parties will be held to be tenants in common of all the real property, including the improvements, each holding an interest proportionate to the value of the party's property as determined under section 5 of this chapter.

As added by P.L.2-2002, SEC.15.

IC 32-30-3.1-7

Good faith purchaser

Sec. 7. Except when the purchaser knows at the time of the sale that the seller lacks authority to sell the property, a purchaser who in good faith, at a judicial or tax sale, purchases property that is sold by the proper person or officer has color of title within the meaning of this chapter, whether or not the person or officer had sufficient authority to sell the property. The rights of the purchaser acquired under this section pass to the purchaser's assignees or representatives.

As added by P.L.2-2002, SEC.15.

IC 32-30-3.1-8

Occupant's color of title; requirements

Sec. 8. An occupant of real property has color of title within the meaning of this chapter if the occupant:

- (1) can show a connected title in law or equity, derived from the records of any public office; or
- (2) holds the property by purchase or descent from a person claiming title derived from public records or by a properly recorded deed.

As added by P.L.2-2002, SEC.15.

IC 32-30-3.1-9

Recovery for lasting improvements

Sec. 9. (a) A claimant occupying real property who has color of title may recover the value of lasting improvements to the real property made by the party under whom the claimant claims, as well as those improvements made by the occupying claimant.

(b) A person holding the premises as a purchaser, by an agreement in writing from the party having color of title, is entitled to the remedy set forth in subsection (a).

As added by P.L.2-2002, SEC.15.

IC 32-30-3.1-10

Execution for possession

Sec. 10. A plaintiff in an action for possession of real property to which this chapter applies is entitled to an execution for the possession of the real property in accordance with this chapter, but not otherwise.

As added by P.L.2-2002, SEC.15.

IC 32-30-3.1-11

Writ for possession of land; required payments

Sec. 11. If any land is sold by an executor, an administrator, a guardian, a sheriff, or a commissioner of the court and afterwards the land is recovered in the proper action by:

- (1) a person who was originally liable;
- (2) a person in whose hands the land would be liable to pay the demand or judgment for which or for whose benefit the land was sold; or
- (3) anyone making a claim under a person identified under subdivision (1) or (2);

the plaintiff is not entitled to a writ for the possession of the land without having paid the amount due, as determined under section 12 of this chapter (or IC 34-1-49-12 or IC 32-15-3-12 before their repeal) within the time determined by the court.

As added by P.L.2-2002, SEC.15.

IC 32-30-3.1-12

Remedies

Sec. 12. Any defendant in the main court action for possession of real property may file a complaint setting forth the sale and title under it and any other matter allowed under this chapter. The court proceedings must assess the values, damages, and other amounts of which assessment is required under section 3 of this chapter. If after the main court action the plaintiff has not paid the amount assessed by the court, the court shall set a reasonable time for the plaintiff to pay the defendant. If the plaintiff does not pay the amount within the time set by the court, the court shall order the land sold without relief from valuation or appraisal laws. If the premises are sold, the defendant is entitled to receive from the proceeds of the sale the amount the defendant is due, with interest, and court costs. The plaintiff is entitled to the remainder of the proceeds of the sale.

As added by P.L.2-2002, SEC.15.